

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

BASEL MISSION HOME HEALTH,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	CIVIL ACTION NO. 7:16-CV-296
CATLIN SPECIALTY INSURANCE	§	
COMPANY and RICK LATHRUM,	§	
	§	
Defendants.	§	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendants Catlin Specialty Insurance Company and Rick Lathrum (“Defendants”) hereby remove the action styled and numbered *Basel Mission Home Health vs. Catlin Specialty Insurance Company and Rick Lathrum*, Cause No. C-1761-16-E, pending in the 275th Judicial District Court in Hidalgo County, Texas to the United States District Court for the Southern District of Texas, Hidalgo Division. For the reasons set forth below, removal of the state court action is proper under 28 U.S.C. §§1332, 1441, and 1446.

I. THE STATE COURT ACTION

1. On April 19, 2016, Plaintiff Basel Mission Home Health Services LLC (incorrectly named as Basel Mission Home Health) (“Plaintiff”) filed its Original Petition in the 275th Judicial District Court in Hidalgo County, Texas – Cause No. C-1761-16-E.

2. Plaintiff’s Original Petition alleges causes of action against Defendants for Breach of Contract, Violations of Sections 541 and 542 of the Texas Insurance Code, and Breach of The Duty of Good Faith and Fair Dealing.

II. NOTICE OF REMOVAL IS TIMELY

3. Defendants were served with the petition and citation on May 6, 2016.

Accordingly, Defendants file this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b).

III. VENUE IS PROPER

4. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the action has been pending is located in this district.

IV. BASIS FOR REMOVAL JURISDICTION

5. Removal of this action is proper under 28 U.S.C. §1441 because it is a civil action brought in a state court and the federal courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. §1332. Specifically, removal is proper because there is now, and was at the time this action was filed, complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy exceeds \$75,000 excluding interest, costs, and attorney's fees.

V. DIVERSITY

6. Plaintiff was at the time this lawsuit was filed, and at the date of this Notice remains, a limited liability company organized and existing under the laws of Texas. Plaintiff's sole living member is Pamela A. Eyambe. Pamela A. Eyambe is an individual residing in Mission, Texas. For purposes of diversity citizenship, Pamela A. Eyambe is a citizen of the State of Texas. A limited liability company's citizenship is determined by the citizenship of all of its members.¹ Therefore, for the purposes of diversity citizenship, Plaintiff is a citizen of the State of Texas.

7. Defendant Catlin Specialty Insurance Company is a corporation incorporated and existing under the laws of Delaware, with its principle place of business in Atlanta, Georgia. For

¹ See *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1079-80 (5th Cir. 2008).

purposes of diversity citizenship, Catlin Specialty Insurance Company is not a citizen of the State of Texas.

8. Defendant Rick Lathrum is an individual residing in Scottsdale, Arizona. For purposes of diversity citizenship, Rick Lathrum is not a citizen of the State of Texas.

9. Accordingly, there is now, and was at the time this action was filed, complete diversity of citizenship between Plaintiff and Defendants.

VI. AMOUNT IN CONTROVERSY

10. If it is facially apparent that Plaintiff's claims exceed the jurisdictional amount, Defendants' burden is satisfied.²

11. In its Original Petition, Plaintiff seeks monetary relief over \$200,000.³

12. Thus, it is facially apparent that Plaintiff's claims exceed the jurisdictional minimum of \$75,000.01.

13. Because there is complete diversity among the parties and the amount in controversy requirement is satisfied, this Court has jurisdiction pursuant to 28 U.S.C. §1332(a). Removal is therefore proper.

VII. COMPLIANCE WITH LOCAL RULE LR81

14. Pursuant to Rule LR81 of the Local Rules of the Southern District of Texas, Defendants are filing this Notice of Removal accompanied by the following exhibits:

- a. All executed process in the case, attached hereto as **Exhibit A**
- b. Plaintiff's Original Petition, attached hereto as **Exhibit B**
- c. Defendants' Original Answer and Affirmative Defenses, attached hereto as **Exhibit C**

² *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

³ See **Exhibit B**, Plaintiffs' Original Petition at §XIII, p.14.

- d. The docket sheet, attached hereto as *Exhibit D*
- e. An index of matters being filed, attached hereto as *Exhibit E*
- f. A list of attorneys involved in the action, attached hereto as *Exhibit F*

VIII. CONCLUSION

15. Defendants will promptly file a copy of this Notice of Removal with the clerk of the state court where the action is pending.

16. Therefore, Defendants hereby provide notice that this action is duly removed.

Respectfully submitted,

By: /s/ G. Brian Odom

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Notice of Removal has been served on all the following counsel of record by electronic filing pursuant to the FEDERAL RULES OF CIVIL PROCEDURE on this 3rd day of June 2016:

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